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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,498	01/23/2006	David Diamond	PIP137DIAM-US	2067
31518	7590	09/16/2009	EXAMINER	
NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			DAGNEW, SABA	
			ART UNIT	PAPER NUMBER
			3688	
			NOTIFICATION DATE	DELIVERY MODE
			09/16/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/565,498	<b>Applicant(s)</b> DIAMOND ET AL.	
	<b>Examiner</b> SABA DAGNEW	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

This action is in reply to the amendment filed on 24 June 2009. Claims 44, 48-49 and 58 have been amended. Claims 1-23 are cancelled. Claims 44-58 are currently pending and have been examined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jung et al (US Pub. No. 2003/0172037 A1) in view of Deaton et al (US Patent No 6,292,786 B1)

With respect claim 44 and 58, Jung teaches a computer system comprising:

a first POS computer system for a movie theater, said first POS computer system comprising a first POS computer system central processing unit, a first POS computer system memory, first POS computer system database of information stored in said memory, and a first POS computer system POS terminal, said first POS computer system central processing unit having read write access to said first POS computer system database in said first POS computer system memory, said first POS computer system POS terminal designed to transmit transaction information and one or more customer IDs associated with a transaction to said first POS computer system central

processing unit(**Figs. 1-3, paragraph [0025], paragraph [0027] and paragraph [0039]**, ticket selling website (POS computer system) including CPU, memory, **paragraphs [0011], and [0030]** teaches reading/displaying (writing ) access and database **and paragraph [0010]** teaches sending the encrypted electronic ticket to the user system );

said first POS computer system database storing movie showings data for at least one movie theater store defining movie showings in at least one theater in said movie theater store(**(Fig. 3 and paragraph [0039], including purchase of tickets for showing of movies, ticket used time, movie title and movie showing and time and teaches (database) contained ticket information)** and transactions data defining transactions associated with said at least one movie theater store including purchase of tickets for showing of movies and purchase of other items sold by said movie theater store (**paragraph [0026]**, teaches allowing user to select (purchase) electronic tickets related to various products and service such as train/bas ticket);

said first computer system database storing at least one of the following movie ticket sales information: ratings of movies viewed, time of day for movies viewed, frequency of movies viewed, and delay in time of movies viewed in relation to movie release date and associating said movie ticket sales information with a customer ID (**Fig. 3**, which teaches storing ticket detailed information along with customer number (customer ID) in the database).

stored incentive offer criteria including at least one of (1) threshold criteria for determining whether an incentive offer should be communicated to a consumer and (2) terms criteria determining terms for said consumer obtaining an incentive defined by said incentive offer, wherein at least one of said threshold criteria and said terms criteria depend upon said transaction data (**paragraph [0004]**, where "gift card/ discount coupon" reads on incentive provided for purchase various kinds of goods associated with purchased ticket, and where "purchasing movie/play ticket" reads on offer criteria); communicating said incentive offer to said customer at a POS(**paragraph [0004]**, where "gift card/ discount coupon" reads on incentive provided for purchase various kinds of goods associated);

Additionally, Jung in claim 58 teaches reading or inputting data including both an ID of a customer and identity of products or services being purchased by said customer as part of a transaction and communicating information to said customer while said customer is conducting a transaction at said POS terminal (**paragraph [0014]**, teaches reading electronic ticket image and identifier and receiving ticket request , forwarding electronic ticket image and identifier data and sending to the customer)

Jung teaches all the above elements including ticket selling website (POS computer system) including CPU, memory reading/displaying (writing ) access and database and sending the encrypted electronic ticket to the user system (**Figs. 1-3, paragraph [0025], paragraph [0027] and paragraph [0039], paragraphs [0011], and [0030] and paragraph [0010]** ), a linking between ticket selling web site with the user system (user computer) and connecting to the ticket server over a communication

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network (**Fig. 1 and paragraph (0025)**), database for storing transaction data including purchased ticket bar code ( product) (**Fig. 3**) and gift card/discount coupon included for purchasing movie ticket (**paragraph [0004]**).

Jung does not teach second POS computer for a non-movie theater retail store, linking the first POS terminal with the second retail store POS terminal, providing incentive associated with a customer ID.

However, Deaton teaches second POS computer for a non-movie theater retail store (**Fig. 2E, Fig. 3, Fig. 6, Col. 6, lines 60-67, and Col. 7, lines 9-29**, which teaches, POS terminal with memory, processor, storage (database) that designed to transmit information) linking the first POS terminal with the second retail store POS terminal

*(Fig. 1, 24 teaches communication links between POS terminals and Col. 5, lines 6, plurality of point-of-sale terminals connected to a router and direct information in real time bases ), providing incentive associated with a customer ID (Col. 2, lines 20-24, teaches providing incentive to the identified customer at the point of sale).* Therefore, it would have been obvious to the one ordinary skills in the art at the time of the invention was made to include a feature that links POS terminals from one retail store to the other store as taught by Deaton in the system of Jung in order to share market information such as product pricing, and purchase information in real-time bases and timely fashion (**see Col. 14, lines 12-15**)

With respect to claim 45, Jung in view of Deaton teaches all elements of claim 44, furthermore except transaction data for transaction transacted in the second POS computer system based at least in part upon geographic location.

However, Deaton teaches transaction data for transaction transacted in the second POS computer system based at least in part upon geographic location (**Col. 2, lines 15-24** teaches real-time product purchasing received from a remote location). Therefore, it would have been obvious to the one ordinary skills in the art at the time of the invention was made to include location based communication feature as taught by Deaton in the system of Jung in order to receive market information from remote area (**see Col. 2, lines 15-16**)

With respect to claim 46, Jung in view of Deaton addressed by the rejection of claim 44 as cited above.

With respect to claim 47, Jung in view of Deaton addressed by the rejection of claim 44 as cited above.

With respect to claim 48, Jung in view of Deaton addressed by the rejection of claim 44 as cited above.

With respect to claim 49, Jung in view of Deaton addressed by the rejection of claim 44 as cited above.

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With respect to claim 50, Jung in view of Deaton all elements of claims 44 and 49, except non-movie theater retail store is one of a supermarket, a convenience store, and a gasoline or other motor vehicle fuel station.

However, Deaton teaches the system wherein said non-movie theater retail store is one of a supermarket, a convenience store, and a gasoline or other motor vehicle fuel station (**Fig. 1, 22**, where “Wholesaler” reads on Non-movie Theater). Therefore, it would have been obvious to the one ordinary skill in the art at the time of the invention was made to include a feature that connect a movie theater to wholesaler store as taught by Deaton in the system of Jung in order to conduct real-time merchandise order whenever necessary.

With respect to claim 51, Jung in view of Deaton addressed by the rejection of claim 44 as cited above.

With respect to claim 52, Jung in view of Deaton teaches all elements of claims 44 and 51, furthermore, Jung teaches the system wherein said central computer system has code for implementing real time processing (**paragraph 0032**, teaches barcode information for selling ticket)

With respect to claim 53, Jung in view of Deaton teaches all elements of claims 44 and 51; furthermore, Jung teaches the system wherein said central computer system contains a database storing transaction data in records each including fields for at least 7 of the following:



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consumer name 503, consumer address, consumer telephone number, consumer email address, ID, FSID, UPCs of items purchased, date of transaction, price of items purchased, credit card type 519, part or all of credit card number, credit card expiration date, fax number, first FSID, second FSID, first MID1, second MID2, and store ID (**Fig. 3**, teaches consumer information).

With respect to claims 54-56, Jung in view of Deaton teaches all elements claim 44, except the location of movie theater store. However, official notice is taken since it is old and well known in the art to locate a movie theater by the address (e.g. AMC Hoffman Center 22, located at 206, Swamp Fox Road Alexandria, VA 22314). Therefore, it would have been obvious to the one ordinary skill in the art to include a map that locates the Movie Theater in the system of Jung in order to direct viewers to the nearest location.

With respect to claim 57, Deaton in view of Smith addressed by the rejection of independent claims 44 and 58 as cited above

### ***Response to Arguments***

Applicant's arguments with respect to claims 44, 48-49 and 58 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SABA DAGNEW whose telephone number is (571)270-3271. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on (571) 272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saba Dagnev/  
Examiner, Art Unit 3688

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688